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on Ethical Challenges
in Their Work

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EXECUTIVE SUMMARY

This study provides a map of perceived ethical challenges that documentary filmmakers—directors and producer-directors—in the United States identify in the practice of their craft. It summarizes the results of 45 long-form interviews in which filmmakers were asked simply to describe recent ethical challenges that surfaced in their work. This baseline research is necessary to begin any inquiry into ethical standards because the field has not yet articulated ethical standards specific to documentary. These interviews demonstrate, indeed, a need for a more public and focused conversation about ethics before any standards emerging from shared experience and values can be articulated.

Documentary filmmakers identified themselves as creative artists for whom ethical behavior is at the core of their projects. At a time when there is unprecedented financial pressure on makers to lower costs and increase productivity, filmmakers reported that they routinely found themselves in situations where they needed to balance ethical responsibilities against practical considerations. Their comments can be grouped into three conflicting sets of responsibilities: to their subjects, their viewers, and their own artistic vision and production exigencies.

Filmmakers resolved these conflicts on an ad-hoc basis and argued routinely for situational, case-by-case ethical decisions. At the same time, they shared unarticulated general principles and limitations. They commonly shared such principles as, in relation to subjects, “Do no harm” and “Protect the vulnerable,” and, in relation to viewers, “Honor the viewer’s trust.”

Filmmakers observed these principles with widely shared limitations. In relation to subjects, they often did not feel obliged to protect subjects who they believed had themselves done harm or who had independent access to media, such as celebrities or corporate executives with their own public relations arms. In relation to viewers, they often justified the manipulation of individual facts, sequences, and meanings of images, if it meant telling a story more effectively and helped viewers grasp the main, and overall truthful, themes of a story.

Finally, filmmakers generally expressed frustration in two areas. They daily felt the lack of clarity and standards in ethical practice. They also lacked support for ethical deliberation under typical work pressures.

This survey demonstrated that filmmakers generally are acutely aware of moral dimensions of their craft, and of the economic and social pressures that affect them. This study demonstrates the need to have a more public and ongoing conversation about ethical problems in documentary filmmaking. Filmmakers need to develop a more broadly shared understanding of the nature of their problems and to evolve a common understanding of fair ways to balance their various obligations.

ETHICS AND DOCUMENTARY

Concerns about documentary ethics are not new, but they have intensified over the past several years in response to changes in the industry. By the late 1990s, U.S. documentary filmmakers had become widely respected media makers, recognized as independent voices at a time of falling public confidence in mainstream media and in the integrity of the political process. At the same time, documentary television production was accelerating to fill the need for quality programming in ever-expanding screen time, generating popular, formula-driven programs. The growth of commercial opportunities and the prominence of politics as a documentary subject also produced tensions. Documentary filmmakers, whether they were producing histories for public television, nature programs for cable, or independent political documentaries, found themselves facing not only economic pressure but also close scrutiny for the ethics of their practices.

Controversies emerged about several documentaries. Was *Fahrenheit 9/11* accurate in its factual indictment of the Bush administration's geopolitics? Did *Mighty Times: The Children's March* misrepresent civil rights history through its use of both fabricated and repurposed archival evidence? Should films such as *Ghosts of Abu Ghraib* and *Standard Operating Procedure* feature images that further embarrass and humiliate their subjects?

Filmmakers were drawn into criticism of their peers, while lacking common standards of reference. Unlike journalism, documentary filmmaking has largely been an

individual, freelance effort. Documentary filmmakers typically are small business owners, selling their work to a range of distributors, mostly in television. Even producers working for large outlets, such as Discovery, National Geographic, and PBS, are typically independent contractors. Individual filmmakers may develop concurrent projects with and for a range of television programmers, from PBS to the Food Channel, balancing sponsored work (for income) with projects of the heart. Some of these outlets may ask filmmakers to observe standards and practices, and/or ethics codes derived from print journalism and broadcast news and developed in conjunction with journalism programs in higher education. For the most part, however, when it comes to standards and ethics (and even independent fact checking), documentary filmmakers have largely depended on individual judgment, guidance from executives, and occasional conversations at film festivals and on listservs.

Ethical challenges are linked to changes in business practice.

At the same time, many of the filmmakers surveyed spoke of commercial pressures, particularly in the cable business, to make decisions they believed to be unethical. The trend towards faster and cheaper documentaries and the “assembly line” nature

of work has proven challenging to filmmakers’ understanding of their obligations to subjects in particular. They also blurred the line between traditional documentary, reality, and hybrid forms. These developments often troubled documentarians: “[Facts] are not verified . . . It has no ethics. It’s increasingly entertainment. To look at a homicide that happened seven years ago, and look at who did it—it’s good entertainment. It has no ethical or redemptive value . . . It’s not increasing anyone’s knowledge.” Budgets demand efficiencies that may be ethically troubling. In one case, for instance, a filmmaker was on location shooting a wildlife film, trying to capture one animal hunting another:

We tried to shoot a few, and missed both of them. Unbeknownst to me, the [animal wrangler] broke the next rabbit’s leg, so it couldn’t run. So we got one. On the next take, they then asked, “Should we break its leg again?” . . . the DP [director of photography] was sitting there, saying “No, I’m sure you wouldn’t want to do it,” but nodding his head yes. I made the decision, let them break it. I regret it. It eats me up every day. I can sort of rationalize this, that it might be killed by a natural predator. But for us to inflict pain to get a better shot was the wrong thing to do.

Filmmakers also face pressure to inflate drama or character conflict and to create drama where no natural drama exists. They may be encouraged to alter the story to pump up the excitement, the conflict, or the danger. In one case, a filmmaker lacked exciting enough pictures of a particular animal from a shoot, and the executive producer substituted animals from another country. The filmmaker believed this to misrepresent the conditions of the region.

The assembly-line nature of the production process also threatens the integrity of agreements made between producers and their subjects as a condition of filming. The producer who lines up subjects or oversees production is often separated from editing and postproduction. Filmmakers felt frustrated that stations did not always honor the agreements they had made with their subjects. In one example, interviews were given and releases were signed on condition that they “garble their voice and obscure their face . . . They didn’t garble the voice but did obscure the face. That makes me uncomfortable; it puts them at risk.”

Where institutional standards and practices exist, as in the news divisions of some broadcast and cablecast networks, filmmakers felt helpfully guided by them. However, even filmmakers who work with television organizations with standards and practices may not benefit from them because the programs are executed through the entertainment divisions.

The standards and practices share some common themes, as analyzed by project advisor Jon Else. They typically assert that an independent media is a bulwark of democracy, and that the trust—of both audience and subject—is essential. They eschew conflict of interest. To achieve those goals, standards uphold accuracy, fairness, and obeying of law, including privacy law. Furthermore, producers, who were held responsible for the standards, are typically forbidden to offer subjects the right of review or to restage events; they are required to ensure that image and sound properly represent reality, and that music and special effects are used sparingly. Furthermore, noncommercial public TV news programs explicitly placed journalistic standards above commercial mandates.

Singled out for notice was the attention at some television networks—even when not in the news division—to factual accuracy. One filmmaker, for instance, created archival material to use in her documentary and was asked to take it out by the

broadcaster when they found out it wasn't real. "We loved the texture of the campaign commercials for various candidates. [Our subject] had one for radio; we used the audio and made a commercial [to go with the audio]. [Our broadcaster] asked if it was real. And it wasn't, so we had to take it out. It's too misleading to the audience." They also respected broadcasters' fact-checking departments, and some found that people in those departments were willing to push back against network pressures to fudge facts or artificially enhance drama.

When documentary filmmakers do have to make their own ethical decisions, how do they reason? What are their concerns? How much do their own reasoning processes correlate with existing journalism codes? As documentary production becomes more generalized, and as public affairs become ever more participatory, the question of what ethical norms exist and can be shared is increasingly important. This study explores those questions.

METHODS

The core data was gathered in long-form, hour-long interviews, grounded in open-ended questions, conducted usually by phone. Filmmakers were asked to speak about their own experiences, focusing on the recent past, rather than generalizing about the field. The interview team consisted of Center for Social Media fellow and filmmaker Mridu Chandra and American University School of Communication MFA graduate student Maura Ugarte. Data were reviewed by an advisory board composed of two industry veterans—filmmaker and author Sheila Curran Bernard and filmmaker and professor Jon Else—and documentary film scholar Bill Nichols.

The interview pool consisted of 41 directors or producer-directors who had released at least two productions at a national level and who have authorial control. Most of those makers had experience both with nonprofit outlets, such as public TV, and with cable or commercial network television. Also included were four executive producers in national television programming organizations. The population spanned three generations.

All interviewees were provided with a consent form that had been approved by the American University Institutional Review Board, and all were offered anonymity. Anonymity was important to many, especially to those working directly and currently for large organizations. Anonymity permitted filmmakers to speak freely

about situations that may have put them or their companies under uncomfortable scrutiny. At the same time, some people encouraged us to make their stories public and volunteered use of their names.

DISCUSSION

Filmmakers identified challenges in two kinds of relationships that raised ethical questions: with subjects and with viewers. The ethical tensions in the first relationship focused on how to maintain a humane working relationship with someone whose story they were telling. The ethical tensions in the second focused on ways to maintain a viewer's faith in the accuracy and integrity of the work. In both cases, militating against what filmmakers might prefer personally to do was the obligation to complete a compelling and honest documentary story within budget.

In most cases, documentarians believed strongly in making informal commitments and employing situational ethics determined on a case-by-case basis. They nonetheless subscribed to shared, but unarticulated, general principles. In the case of subjects who they believed were less powerful in the relationship than themselves, they believed that their work should not harm the subjects or leave them worse off than before. In the case of viewers, they believed that they were obligated to provide a generally truthful narrative or story, even if some of the means of doing that involved misrepresentation, manipulation, or elision.

SUBJECTS: DO NO HARM, PROTECT THE VULNERABLE

In thinking about their subjects, filmmakers typically described a relationship in which the filmmaker had more social and sometimes economic power than the subject. In this case, they worked for a good-faith relationship that would not put their subjects at risk or cause them to be worse off than they were before the relationship began. They widely shared the notions of “Do no harm” and “Protect the vulnerable.”

They usually treated this relationship as less than friendship and more than a professional relationship, and often as one in which the subject could make significant demands on the filmmaker. “We want to have a human relationship with our subjects,” said Gordon Quinn, “but there are boundaries that should not be crossed. For example, any kind of romantic relationship would be unacceptable. You

always have to be aware of the power that you as a filmmaker have in relationship to your subject.” At the same time, they recognized that professional obligations might force them at least to cause pain. In one case, Sam Pollard asked a subject to redo an interview in order to get a more emotionally rich version of a painful moment when he had been abused by police in prison. The second time, “he was crying, I was crying, we were all crying. It was so powerful. After I wrapped, I felt like a real shit for the rest of the day, felt like I manipulated him for my personal gain. It is a powerful moment in the film but I felt bad to push him to that point when he broke down.”

Filmmakers strove to protect vulnerable subjects.

This perception of the nature of the relationship—a sympathetic one in which a joint responsibility to tell the subject’s story is undertaken, with the filmmaker in charge—demonstrates a major difference between the work of documentary filmmakers and news

reporters. Many documentary filmmakers work with people whom they have chosen and typically see themselves as stewards of the subjects’ stories. As one filmmaker noted: “I am in their life for a whole year. So there is a more profound relationship, not a journalistic two or three hours.”

They were acutely aware of the power they have over their subjects. “I usually enter people’s lives at a time of crisis. If the tables were turned, God forbid,” said Joe Berlinger, “I would never allow them to make a film about my tragedy. I am keenly aware of the hypocrisy of asking someone for access that I myself would probably not grant.” “They let you be there as their life unfolds,” said Steven Ascher, “and that carries with it a responsibility to try to anticipate how the audience will see them, and at times to protect them when necessary.”

“I often think, ‘Let me be this person watching the film.’ Would they hate me? Or would they think it’s fair?” one filmmaker told us. “I want to always be able to send the DVD to them.” Another explained, “You owe them always having in your mind the power you have as a filmmaker, presenting them to millions of people. There are some filmmakers who love the down and dirty—‘I found a fool and I will show them as a fool.’ This is justified sometimes, but it’s often abusive of your power.”

Filmmakers also recognized limits to the obligation to the subject. One diagnostic was whether the filmmaker found the subject ethically lacking, for instance, because of politically or economically corrupt acts. Steven Ascher said that “revealing a subject’s weaknesses or positions that the audience is likely to find laughable or repellant can be justified when they are taking advantage of other people or when they are so completely convinced of their own rightness, they would be happy with their portrayal. You don’t owe them more than that.”

Finally, some filmmakers believed that deceit was appropriate in the service of their work with vulnerable subjects and their stories and with powerful subjects who might put up obstacles.

Following is further discussion of ways in which ethical questions about relationships with subjects surfaced in interviews.

Pre-emptively protecting the subject

The keenly felt power differential between filmmaker and subject led some filmmakers to make unilateral storytelling decisions, usually to omit material, with empathy for the subjects. “It’s important to lift up people who tell their stories, as opposed to making them victims. It’s a moral decision not to enter their lives to only show how poor they are,” said one. “When you have a scene or moment in the film, you may realize it’s just a great moment, and then you realize the subject doesn’t want that moment on screen. I always decide not to use that moment,” said another. One subject when drunk revealed something he had never revealed when sober, and in the filmmaker’s opinion probably would not. The filmmaker decided to exclude this information from the film. In still another case, an HIV-positive mother addicted to drugs asked filmmakers not to reveal where she lives. This filmmaker decided to take the story out altogether: “the harm that we could potentially do overwhelmed our [broadcasting rights] . . . we operate under a do-no-harm policy.”

The felt power differential also led them to protect their subjects when they believed they were vulnerable—not, however, at the expense of preserving their own artistic options. Most kept filming and postponed the decision of whether or not to use the footage. For a film involving high school students, filmmaker Stanley Nelson asked which students smoked marijuana. “Everyone raised their hands. We felt it

was better not to use that scene. They were minors, and might have problems with their families or with the law.” Another director cited a situation where “one high school kid would lift a girl and put her head-first in a trashcan after the teacher had left. We said, ‘We can’t let this happen.’ We stopped filming and stopped this from happening.” One filmmaker who made a documentary about a company that employed illegal immigrants simply left that fact out of the film and did not report it, either: “We didn’t call the police—we felt like that would be a breach of trust.” Another filmmaker’s subject told a story about trying to bring her son across the border illegally. “It’s a powerful story, and its important plot-wise. We consulted with [an] immigration attorney . . . to figure out which of those statements could put the character at risk.” The filmmaker removed an incriminating line, while keeping the general information and preserving the filmmaker’s interests as a creator.

This protective attitude was dropped when filmmakers found an act ethically repugnant, often seeing their job as exposing malfeasance. In one extreme case, for instance, the filmmaker did not protect a subject who implied that he had committed a murder.

Preventing resale of images

Filmmakers also try to prevent material featuring their subjects from being reused by other filmmakers in ways that might misrepresent them in new contexts. Gordon Quinn recalled, “I made a film in the ’70s about an 11-year -old girl growing up. Twenty years later some people making a film about abortion wanted to use some of our footage to set the historical context of the times. I insisted that they show me the cut and when I saw that they were implying that the girl had had an abortion, I said, ‘You have to change that. She’s a real person and you can’t imply something about her that never happened.’ ”

However, filmmakers balanced this concern with the need to resell their footage to make a living and considered appropriate decision making part of maintaining their professional reputations. One said, “That is part of how you generate revenue as a filmmaker . . . it’s a case-by-case example. Who is it and how they are using it is also important, because as a small independent [filmmaker] you are personally accountable. It’s your reputation. If you abuse this, then you won’t get access to people for the next project.”

Sharing decision making

The awareness of a power differential also leads filmmakers sometimes to volunteer to share decision-making power with some subjects. Notably, this attitude does not extend to celebrities, whom filmmakers found to be aggressive and powerful in controlling their image. This distinction accords with filmmakers' sensitivity to the power differential in the relationship.

Most subjects signed releases allowing the makers complete editorial control and ownership of the footage for every use early on during the production process. The terms of these releases are usually dictated by insurers, whose insurance is required for most television airing and theatrical distribution. Perhaps because the terms of these releases were not their own, filmmakers often provided more leeway to their subjects than the strict terms provided in them. Filmmakers often felt that subjects had a right to change their minds (although the filmmakers found this deeply unpleasant) or to see the material involving them or even the whole film in advance of public screenings.

The informal basis upon which they operated also reflects the ambivalence they have about ceding control and their wish to preserve their own creative interests. The ongoing effort to strike a balance, and the negotiated nature of the relationship, was registered by Gordon Quinn:

We say to our subjects, "We are not journalists; we are going to spend years with you. Our code of ethics is very different. A journalist wouldn't show you the footage. We will show the film before it is finished. I want you to sign the release, but we will really listen to you. But ultimately it has to be our decision." In some cases I will say, "If there is something that you can't live with then we'll discuss it, we will have the argument and real dialogue. In the end, if I can't convince you then we'll take it out."

Some also believed that seeing material in advance helped make their subjects more comfortable with the exposure they would encounter, thus avoiding problems in the future. One director recalled, "I knew personal information about one of the [subjects] that I thought would make the film richer, but she was confiding to me in person, not as a filmmaker . . . We discussed it with her, and then she felt comfortable. We showed her the piece first. Then she was OK."

However, when filmmakers did not empathize with, understand, or agree with the subject's concern, or when they believed the subject had more social power than they did, they overrode it. In one case, a subject who had signed a release asked Stanley Nelson not to use an interview. The interview was important for the film, Nelson said, and he believed the request was motivated by desire to control the film. He "wanted us to interview someone else as a precondition [for using his own interview]," Nelson said. "We did talk to that other person on the phone and then decided not to interview them for the film. I felt that my obligation was fulfilled." In another case, a director decided not to show footage to a subject who wanted approval over material used, because he feared the subject would refuse to permit use. In both these cases, the choices not to honor the subject's requests reflected the fact that the subjects—both experts, not less-powerful subjects—attempted to exert control over the film's outcome that differed from that of the filmmakers.

Sharing control of fine cut

Some filmmakers, however, did give subjects the right to decide whether or not their material should be included in the film. Filmmakers grounded this permission in two arguments: they wanted to demonstrate a trust relationship with the subject, and they wanted to make a film that was responsible to the subjects' perspectives. As one said, "I don't want to make films where people feel like they are being trashed . . . We make the films we make because of these relationships we build. It's important to us that people agree with the film."

In some cases filmmakers wanted to share the responsibility and often showed a concern to maintain good relationships. One filmmaker recalled omitting a section on request. "It would have made a fabulous turning point in the film, but I didn't include it. Why? I was making a film about someone who was not loved . . . I wanted to learn more about why she did the awful things . . . it would have been a betrayal to not listen to her." Ross Kaufman noted that the subjects disagreed with the coda at the end of one of his films, saying that "it did not ring true to them . . . They didn't demand it, but they were right. I changed it . . . They were much happier, I was much happier, and the film was better because of it."

Another recalled a prolonged negotiation. When the filmmaker showed a scene of a handcuffed minor in juvenile hall—a crucial and pivotal scene—to the family, in spite of having releases, the mother objected. "Her reasons were good—she did not

want her son to grow up and maybe have a family, and 25 years from now have his kids find out he was arrested for attempted murder.” The filmmaker allowed the family to consider; eventually, “the kid himself spoke up and said that he was ok with it . . . legally I could have put it in [without the family’s approval], but hey, I want to sleep at night. At the end of the day, it became a mother-son deal and they worked it out.” In this case, the filmmaker’s objective was maintaining the relationship and salvaging key footage.

The decision to share material in advance with subjects was, typically, an informal decision. Only one respondent, Jennifer Fox, said that she offered fine cut approval in a legal document, with the caveat that the subjects couldn’t object to the film because they didn’t like the way they looked but could object to things on the grounds of hurting their family.

A substantial minority of filmmakers argued that they would never allow a subject to see the film until it was finished. Their common reasoning was that doing so in any one case would set a precedent, delegitimize the film, and jeopardize the independent vision of the film. They argued that the responsibility to control the film’s point of view lay squarely with the filmmaker. “No, I never show rough cuts to subjects. It’s part of our work and our interpretation,” said one. Another argued that letting subjects, especially celebrities or other people with social power, have input would threaten the credibility of the final product: “I don’t think the film stays credible if subjects are approving their sound bites,” said filmmaker Maggie Burnette Stogner. Another filmmaker said that while she would not show subjects the current work, she would show previous films she had made, as a way of gaining their trust.

Paying subjects

The question of whether to pay subjects was of great concern to filmmakers.

Filmmakers who thought of themselves as journalists resisted even the idea of payment. In journalistic practice, payment is usually forbidden for fear of tainting the information garnered. Jon Else said:

For years I never paid anyone for an interview. There is a huge danger that paying for talk will undermine the honesty of the talk, and that it will poison the river for the next filmmaker. Would you believe an interview with Dick Cheney if you knew he was paid a hefty honorarium? But I’m reconsidering, after seeing the

good sense of Errol Morris' paying his subjects in *Standard Operating Procedure*. I have come around to believe that a small honorarium is OK, that we should cover the subject's expenses and lost work, and that we sure as hell should share profit if we can. This is an area that we haven't really worked out, where a big conversation needs to happen. It's one of those areas where our responsibility to our audience and our responsibility to our subjects can be at odds.

Many filmmakers believed that payment was not only acceptable but a reasonable way to address the power differential, even though payment often sufficed only to cover costs of participation.

Should makers pay subjects?

An independent filmmaker said that his financially strapped subjects could see that "we had money to make the movie, and we were making money ourselves off their tragedy, at a time when they could not

work because of dealing with [a difficult situation]." In this regard, many found institutional rules against payment to be arbitrary and even counterproductive. One filmmaker said "I might hire a scholar for a day to consult with me on a script, so why can't I pay a musician who's made little money and felt exploited by white people their whole life? What is the difference?" A cable TV producer argued that the ethical thing to do would be to pay subjects. "We have the money. We are spending \$500 on a dinner for 5 people. Here this guy worked for five days and they get no glory, they go back to their regular jobs." The producer noted that the filmmakers work for a for-profit venture, and "we're making our money based on these people's stories . . . It's become an easy thing to do to say that we don't pay. But this is an excuse to keep the budget down."

At the same time, filmmakers sought to assess situations informally on a case-by-case basis. The filmmaker whose subjects were financially strapped did not talk about money in initial conversations, but a year later, when he was still filming, he offered his subjects a \$5,000 honorarium. He chose to do this because the subjects had asked for money, and he felt that by then his access was not predicated on the payment, and that this was "an important gesture to make." Another filmmaker found subjects, who were immigrants, asking to borrow money, which she refused to do because she feared it would jeopardize her working relationship with them:

“You cross the line, are you the filmmaker or their best friend in America? . . . It was awkward for them but I did not want to set a precedent.”

Occasionally filmmakers even shared film profits with the subjects, although not as a contractual matter from the start. After *Hoop Dreams* became wildly successful, noted Gordon Quinn, Kartemquin Films shared profits (based on screen time) with everyone who had a speaking role in the film. It was the “right thing to do,” he said, because it “was their lives, their stories that made it successful.” The two central characters had equal shares with the three filmmakers.

Not everyone who paid did so in recognition of social inequality. One filmmaker sometimes paid because it was the easiest way to get the work done. “I usually say no, it’s a conflict of interest, but sometimes you really want someone to do the interview.” Another thought it was more a matter of cultural norms. “In London, people expect fees for interviews, etc., anytime you take up someone’s time. It’s an accepted norm to pay fees. In Egypt, I had a fixer who paid everyone as we went, that’s the way they do things there. I remember negotiating with a bigwig, he was in demand, he said he’d like to do it, and requested a donation to a nonprofit. I wasn’t comfortable with it but I did it. In that instance, I didn’t feel it would affect what he was going to say.”

Deception

Some filmmakers acknowledged that they occasionally would resort to bad faith and outright deception, both with subjects and with gatekeepers who kept them from subjects. In both situations, they used deception to keep someone with the power to stop the project from doing so, and they regarded it as entirely ethical because of an ends-justifies-the-means argument.

Filmmakers admitted to not telling the whole truth or concealing their motivation or their film’s “true politics” to get access to a subject or to “get the scene you want to get.” In one case, a filmmaker hid the fact from a political candidate that his film was about the opposing candidate. He justified it by the result: “Ultimately there is a story to be told, you may have to make these compromises. Hopefully you do it in a way that ultimately, with the finished product that I had a clear conscience. I may get in by a sneaky way but hold up standards in the final product.” Another gained access to someone in prison by writing on BBC letterhead stationery, although he

was not working for the BBC. He said, “I didn’t have a [moral] dilemma. I had to do it.” While some said that they would never lie to a subject about what they were doing in the film, many believed that the decision needed to be taken on a case-by-case basis, considering the goal of the film and the relationship with the viewer. They had fewer qualms about lying to public officials or to representatives of institutions than about lying to subjects.

VIEWERS: HONORING TRUST

Filmmakers also asserted a primary relationship to viewers, which they phrased as a professional one: an ethical obligation to deliver accurate and honestly told stories. This relationship was, however, much more abstract than the one with their subjects.

“In the edit room, your allegiance is to the audience.”

This second relationship became primary in the postfilming part of the production process. Filmmakers expected to shift allegiances from subject to viewer in the course of the film, in order to complete the project. “I have to be careful not to abuse

the friendship with the subject, but it’s a rapport that is somewhat false,” said one. “In the edit room . . . you decide what your film is going to be, you have to put your traditional issues of friendship aside. You have to serve ‘the truth.’” Another filmmaker unapologetically recalled alienating his subjects because he had, in the interest of the viewers and of his own artistic values, included frank comments that caused members of their own community to turn against them. Although the result was unintentional, he also felt no remorse. He is still in contact with his characters, but he admitted “they felt betrayed by [him] in some way.” They had expected the filmmaker to protect them by not including comments they made and remembered making. Still another grappled with this issue in the editing room: “I was complaining to someone [that] I feel some allegiance to them, and the person said that at this point your only allegiance should be with the audience. That was really helpful to me. In that part, friendship wasn’t helpful in making the film, even though it is during the production phase.”

Filmmakers accepted significant manipulation of the situation in filming without regarding it as a betrayal of viewer expectations. They were fully aware that their

choices of angles, shots, and characters were personal and subjective (a “POV,” or point of view, was repeatedly referenced as a desirable feature of a documentary), and justified their decisions by reference to the concept “the truth.” This concept was unanchored by validity tests, definitions, or norms. Rather the opposite, in fact: faced with evidence of or a decision for inaccuracy or manipulation, they often moved “the truth” to a higher conceptual level, that of “higher truth.”

This “higher truth” or a “sociological truth” inadvertently invoked documentary pioneer John Grierson’s description of documentary as a “creative treatment of actuality.” Grierson used this flexible term to permit a wide range of actions and approaches ranging from re-enactment to highly selective storytelling—indeed, even outright government propaganda. His promotion of the term has been criticized, by scholar Brian Winston, among others, for allowing ethical choices to go unexamined. For Grierson, who incessantly strategized to garner government resources for documentary film, the phrase had strategic advantages. For today’s documentary filmmakers, it appears to grace a set of choices about narrative and purpose in the documentary. It appears to justify the overall goal of communicating the important themes, processes, or messages within the (required) entertaining narrative frame, while still permitting the necessary distortions to fit within that frame and the flexibility to deal with production exigencies.

Getting to “higher truth” sometimes involved fudging facts or adding effects.

Filmmakers surveyed contrasted notions of a “higher truth” with concern for factual accuracy of discrete data, which they also valued but often regarded as a lower-level standard to meet. They spoke of making “a fair film and a truthful film,” not necessarily one that would, for instance, make their subjects happy or their networks richer.

Their goal was “to tell the story honestly, to try to keep as emotionally truthful as possible.” They strove to represent “the truth of who [the subjects] are” or of what the story is.

Following were situations that called forth filmmaker concern about ethical relationships with the audience.

Framing and editing

Filmmakers were acutely aware of the implications of telling a story one way rather than another. One filmmaker's client hired her to make an educational documentary for middle school kids and to leave out the fact that Americans dropped the first atomic bomb. She pushed for inclusion. "They said it will be upsetting for children, and that the film's point is solely to talk about material science. I said, 'I don't care what you're talking about, we have to put it in there' First and foremost the kids' education is at stake. Then, it's got our company's name on it. We are a respected educational program provider, [and] we would have looked bad, disgraced by it."

Filmmakers expected to get to truth via the vehicle of a story and held themselves responsible for its implications. Narrative structure sometimes mandates manipulation, which they often but not always found uncomfortable. In one case, a filmmaker decided to withhold information about a public figure's drug addiction in order to create "the strongest cinematic experience. We want to build him up as a hero and show the fall."

The process of film editing—collapsing actual time into screen time while shaping a film story—involves choices that filmmakers often consider in ethical terms. Steven Ascher said:

You could argue that cutaways in a scene filmed with one camera are a distortion—you cut from a person talking to a reaction shot, condensing or reshuffling dialogue before you cut back to the person. But those kinds of distortions are often necessary to tell the story or to compress ideas that would otherwise take too long. Jump cuts might be more "honest" about the rearranging going on but might be unwatchable. Dialogue editing and reaction shots are necessary tools of documentary, and while sometimes manipulative, often fall under Picasso's idea of art as the lie that makes us realize the truth.

"When I'm working on a doc, I try not to lie," said Sam Pollard. "But that doesn't mean that I don't bend the truth. If you're a filmmaker you try to create a POV, you bend and shape the story to your agenda . . . Especially on a historical documentary, I keep to the facts. But if you want to really explore it, you have to shape and bend. It depends on the project."

Staging, restaging, and effects

Many filmmakers noted that restaging routine or trivial events such as walking through a door was part and parcel of the filmmaking process and was “not what makes the story honest.” But many filmmakers went much further, without discomfort.

For instance, filmmakers also regularly used re-creations (re-staging of events that have already occurred, whether in the recent or distant past), although they widely believed that it was important that audiences be made aware somehow that the footage is recreated. Stanley Nelson said, “People have to know and feel it’s a recreation. You have to be 99.9 percent sure that people will know.” Some filmmakers also “stage” events to occur at a time convenient to the filming. One said that “as long as the activities they do are those they would normally be doing, if your filming doesn’t distort their life . . . there is still a reality that is represented.” Another recalled asking her subjects to stage an annual event earlier in the year than it would happen in real life:

I would not want to put words in people’s mouth, or edit them in a way that’s not leading to the larger truth. But I feel like it’s important to get the big-picture truth of the situation on camera. The larger truth is that this conversation is going to happen in this city, at some point, and so it doesn’t matter that it doesn’t happen at this moment.

Video “sweetening,” or adding in layers of sound, did not concern documentarians in general—if it was incidental. One said, “If you add birds chirping to facilitate the story, the birds are inconsequential to the audience misunderstanding the scene, it helps them enter the moment.” However, a few noted that audio that changed the meaning—for instance, adding the sound of gunshots to a scene—was regarded as inappropriate. In general, documentary filmmakers tended to volunteer few comments about audio elements.

Use of archival materials

Treatment of archival materials (especially still and motion photographic materials) was widely recognized as a site of ethical challenges, but there was a wide range of responses. Filmmakers repeatedly referenced problems with using historical materials, which document specific people, places, and times, as generic references or in service to a particular and perhaps unrelated point.

Some filmmakers were adamant that only precisely accurate images should be used. One filmmaker said that she tries to be as authentic as possible, down to the year and the place. She said she was trained to think of archival this way, to think that as a filmmaker, “you put it out there as truth. Someone else will be culling footage from your film. If it’s 1958 Manila . . . you have to be truthful.” Louis Massiah reiterated this. “A good film often has many lives, and one of the lives is in educational institutions, within schools and libraries. The film becomes a historical document. So to use archival footage . . . inaccurately, for mood or tone, . . . not looking at archival footage as a document of a particular time and place, becomes problematic.” Peter Miller noted that

the more fundamental questions are related to matters of life and death. With the Holocaust, you really don’t want to show anything other than the exact day or place. [You have to be] obsessively careful. In a world where people deny the Holocaust, you don’t want to give wind to that fire. And you want to be honorable.

Jon Else noted that he once changed a shot that appeared on a TV set in *Sing Faster* because it involved a Major League Baseball game, and he had determined that he could not license the footage. He said, “It’s a rotten thing to have done journalistically. That is the most deliberate falsification I’ve ever done . . . My test for these things is, ‘Does the audience know what it’s getting?’ ”

Some filmmakers, however, were comfortable using “stuff that evokes the feel of the spot or the person or the subject matter.” They believed it was acceptable when it helped the story flow without causing misunderstandings, and they did not believe in disclosure. “Saying ‘this blurry figure is not our guy’ would ruin the scene,” said Peter Miller. “You use [the photo] with the knowledge that ultimately it’s not important if it’s your guy or not, what’s important is the story.” Another recalled:

[One subject] talks about his childhood, his family all died . . . he didn’t have family photos. I at this point had a hobby of buying super 8 films at a flea market, found some home movies from the ’50s of a family, it worked perfectly, a kid his age, house, it was perfect. I used it, and I’m sure 99 percent of the people who watched the film thought it was him and his family. In a certain sense there is something “deceptive” about that. There are purists who would feel that’s not right. Ultimately I’m not of that position. I feel like I approached the subject differently. One struggles enough in making a good film.

Ken Burns recalled having to decide between two photographs to illustrate the point that Huey Long was often surrounded by bodyguards. One featured his typical bodyguards, in street clothes. Another featured uniformed guards—a one-time, exceptional moment. After discussion with his team and with professional historians, he decided for the atypical shot, because it communicated his point (that Long used bodyguards) more rapidly. “I sacrificed a little bit of accuracy. But did I? The reason we still talk about [this] is because it was a perfect ethical conundrum. It spoke to the possibilities as well. It made the film better. It did not compromise an ultimate truth.”

CONCLUSION

This report reveals profound ethical conflicts informing the daily work of documentarians. The ethical conflicts they face loom large precisely because nonfiction filmmakers believe that they carry large responsibilities. They portray themselves as storytellers who tell important truths in a world where the truths they want to tell are often ignored or hidden. They believe that they come into a situation where their subjects, whether people or animals, are relatively powerless and they—as media makers—hold some power. They believe that their viewers are dependent on their ethical choices. Many even see themselves as executors of a “higher truth,” framed within a narrative.

Makers lack a safe venue for public discussion of ethics.

At the same time, they themselves are vulnerable in a wider media system. They constantly face resource constraints and often are trying to behave conscientiously within a ruthlessly bottom-line business environment. They sometimes deal with hostile gatekeepers

or powerful celebrity subjects. Indeed, any subject’s withdrawal of affection may result in denial of access to material in which the filmmakers have invested heavily.

When filmmakers face ethical conflicts, they often resolve them in an ad-hoc way, keeping their deep face-to-face relationship with subjects and their more abstract relationship with the viewers in balance with practical concerns about cost, time, and ease of production.

The ethical conflicts put in motion by these features of a filmmaker's embattled-truth-teller identity are, ironically for a truth-telling community, unable to be widely shared or even publicly discussed in most individual cases. Sometimes filmmakers are constrained by contract, but far more often they are constrained by the fear that openly discussing ethical issues will expose them to risk of censure or may jeopardize the next job.

Filmmakers thus find themselves without community norms or standards. Institutional standards and practices remain proprietary to the companies for which the filmmakers may be working and do not always reflect the terms they believe are appropriate to their craft. Their communities are far-flung, virtual, and sporadically rallied at film festivals and on listservs. Filmmakers need to share both experience and vocabulary and to be able to question their own and others' decision-making processes without encountering prohibitive risk.

Documentary filmmakers need a larger, more sustained and public discussion of ethics, and they also need safe zones to share questions and to report concerns. Any documentary code of ethics that has credibility for a field with a wide range of practices must develop from a shared understanding of values, standards, and practices. A more extended and vigorous conversation is needed in order to cultivate such understanding in this field of creative practice.

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